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EXAMINER	
PANNALA, SATHYANARAYA R	

ART UNIT	PAPER NUMBER
2164	

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01/22/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/809,207	MUTH ET AL.	
	Examiner	Art Unit	
	Sathyanarayan Pannala	2164	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 November 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-16* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. Applicants Amendment filed on 11/6/2008 has been entered. In this Office Action, claims 1-16 are pending.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1, 6, 11 and 16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant defined in amended claims, the limitation as "wherein the data access request is for data that is also accessible by one or more other clients each having a corresponding unexpired token, and wherein said **quiesce time is a time when exclusive access to the data is required by a task**." See specification, page 6, lines 8-9, **quiesce time** first time used in Detailed Description of Embodiments section as "quiesce time may be scheduled to

occur periodically, or may be scheduled individually or otherwise, according to various embodiments." Applicant never defined in the specification. **The word "quiesce" is very rarely used and Webpedia.com defined the word as "To temporarily render inactive."**

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 6-16 are rejected under 35 U.S.C. § 101, because none of the claims are directed to statutory subject matter. The claims lack the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 35 USC 101. They are clearly not a series of steps or acts to be a process nor are they a combination of chemical compounds to be a composition of matter. As such, they fail to fall within a statutory category. They are, at best, functional descriptive material *per se*. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994).

Claim Rejections - 35 USC § 103

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 1,3-6, 8-11, 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmeidler et al. (US Patent 6,374,402) hereinafter Schmeidler, in view of Hart (US Patent 6,983,295) hereinafter Hart, and in view of Ribot (USPA Pub. 2003/0187993) hereinafter Ribot.

8. As per independent claims 1, 6, 11, Schmeidler teaches a method, system as upon user selection of the title from a virtual storefront, the user negotiates for an actual purchase of the title. Negotiation includes user registration with a third party electronic commerce system (eCommerce), provision of user billing information, and selection of one of the purchase types offered with the selected title (col. 2, lines 37-42). Schmeidler teaches the claimed, in response to a metadata server receiving a data access request from a client, a metadata server, as to access contents on a RAFT

server (Fig. 8, col. 22, lines 48-49 and lines 51-52). Schmeidler teaches the claimed, determining a maximum expiration time indicated by a next scheduled quiesce time, as the network file (RAFT) server verifies the Conditional Access Server (CAS's) digital signature and token contents (Fig. 8, col. 22, lines 51-54 and lines 59-66). Schmeidler teaches the claimed, generating an access token that grants the client access to data stored on one or more storage devices associated with the metadata server, wherein the access token comprises an expiration time, as the launch string as digitally signed is provided to the client (Fig. 2, 4 col. 9, lines 36-51) and the RAFT returns the token and activator to the launcher 220 and the token comprises start time 806 and end time 808 (Fig. 8, col. 22, lines 61-62). Schmeidler teaches the claimed, generating an access token comprises setting the expiration time of the access token to be no later than the maximum expiration time indicated by the next scheduled quiesce time (Fig 8, col. 22, lines 65-66).

Schmeidler teaches the claimed, the data access request is for data that is also accessible by one or more other clients each having a corresponding unexpired token (col. 3, lines 47-51). Schmeidler does not explicitly teach quiesce time. However, Hart teaches the claimed, quiesce time is a time when exclusive access to the data is required by a task (Fig. 3, col. 12, lines 48-51). Thus, it would have been obvious to one of ordinary skill in the data processing art at the time of the invention, to combine the teachings of the cited references because Hart's teachings would have allowed Schmeidler's method to provide a recovery method that can be measured in minutes (col. 2, lines 53-54).

Schmeidler and Hart do not explicitly teach prevent access during the quiesce time. However, Ribot teaches the claimed, the access token will be expired during the next scheduled quiesce time, thus preventing the client from using the access token to access the data during the next scheduled quiesce time (Page 4, paragraph [0036].

Thus, it would have been obvious to one of ordinary skill in the data processing art at the time of the invention, to combine the teachings of the cited references because Ribot's teachings would have allowed Schmeidler's method to provide to reduce the amount of unnecessary signaling in a telecommunications network, especially a trunked radio telecommunications network which may be shared by two or more independent organizations (page 2, paragraph [0011]).

9. As per dependent claims 3, 9, 14, Schmeidler teaches the claimed, the metadata server providing the access token to the client as source content delivery platform (SCDP) client 216 (Fig. 2A, col. 8, line 2).

10. As per dependent claims 4, 8,13, Schmeidler teaches the claimed, a storage device receiving a data I/O request associated with the access token, comparing a current system time with the access token's expiration time and denying the data I/O request if the current system time is later than the access token's expiration time, as the RAFT server will deny access if server's current time is not within the token time (Fig. 8, col. 23, lines 7-9).

11. As per dependent claim 5, 10, 15, Schmeidler teaches the claimed, the client is one of a plurality of clients, the access token is one of a plurality of access tokens, each of the access tokens is provided to a respective one of the plurality of clients and wherein at the next scheduled quiesce time the plurality of access tokens are expired without the metadata server transmitting a message to each client to expire its respective access tokens as the authorization token is a signed message from the CAS indicating that the requesting user can have access to a specified briq, on a specific RAFT file server, for the length of time spelled out (Fig. 8, col. 3, lines 47-51).

12. Claims 2, 7, 12, 16, are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmeidler et al. (US Patent 6,374,402) hereinafter Schmeidler, in view of Hart (US Patent 6,983,295) hereinafter Hart, in view of McBrearty et al. (USPA Pub 20040015585 A1) hereinafter McBrearty, and in view of Ribot (USPA Pub. 2003/0187993) hereinafter Ribot.

13. As per dependent claims 2, 7, 12, Schmeidler, Hart and Ribot do not explicitly teach default expiration time. McBrearty teaches the claimed, determining a default expiration time if the default expiration time is earlier than the maximum expiration time, setting the expiration time of the access token to be the default expiration time, as the token has a limited lifetime, typically 24 hours before the token expires (page 1, paragraph [0004]). Thus, it would have been obvious to one of ordinary skill in the data processing art at the time of the invention, to have combined the teachings of the cited references because McBrearty's teachings would have allowed Schmeidler's system

and method for that allows for security tokens to be utilized which have more flexibility in a networked system (page 1, paragraph [0010]).

14. As per independent claim 16, Schmeidler teaches a method, system as upon user selection of the title from a virtual storefront, the user negotiates for an actual purchase of the title. Negotiation includes user registration with a third party electronic commerce system (eCommerce), provision of user billing information, and selection of one of the purchase types offered with the selected title (col. 2, lines 37-42). Schmeidler teaches the claimed, for setting the expiration time of an access token to the earlier of either a maximum expiration time indicated by a next scheduled quiesce time or the default expiration time, wherein the access token that grants the client access to data stored on one or more storage devices associated with the metadata server (Fig. 8, col. 22, lines 51-54 and lines 59-66). Schmeidler teaches the claimed, receiving a data I/O request associated with the access token, as the network file (RAFT) server verifies the Conditional Access Server (CAS's) digital signature and token contents (Fig. 8, col. 22, lines 53-54). McBrearty teaches the claimed, determining a default expiration time if the default expiration time is earlier than the maximum expiration time, setting the expiration time of the access token to be the default expiration time, as the token has a limited lifetime, typically 24 hours before the token expires (page 1, paragraph [0004]. Thus, it would have been obvious to one of ordinary skill in the data processing art at the time of the invention, to have combined the teachings of the cited references because McBrearty's teachings would have allowed Schmeidler's system and method for that allows for security tokens to be utilized which have more flexibility in

a networked system (page 1, paragraph [0010]). Schmeidler teaches the claimed, comparing a current system time with the access token's expiration time and denying the data I/O request if the current system time is later than the access token's expiration time, as the RAFT server will deny access if server's current time is not within the token time (Fig. 8, col. 23, lines 7-9).

Schmeidler teaches the claimed, the data access request is for data that is also accessible by one or more other clients each having a corresponding unexpired token (col. 3, lines 47-51). Schmeidler does not explicitly teach quiesce time. However, Hart teaches the claimed, quiesce time is a time when exclusive access to the data is required by a task (Fig. 3, col. 12, lines 48-51). Thus, it would have been obvious to one of ordinary skill in the data processing art at the time of the invention, to combine the teachings of the cited references because Hart's teachings would have allowed Schmeidler's method to provide a recovery method that can be measured in minutes (col. 2, lines 53-54).

Schmeidler, Hart and McBrearty do not explicitly teach prevent access during the quiesce time. However, Ribot teaches the claimed, the access token will be expired during the next scheduled quiesce time, thus preventing the client from using the access token to access the data during the next scheduled quiesce time (Page 4, paragraph [0036]. Thus, it would have been obvious to one of ordinary skill in the data processing art at the time of the invention, to combine the teachings of the cited references because Ribot's teachings would have allowed Schmeidler's method to provide to reduce the amount of unnecessary signaling in a telecommunications

network, specially a trunked radio telecommunications network which may be shared by two or more independent organizations (page 2, paragraph [0011]).

Response to Arguments

15. Applicant's arguments filed on 11/6/2008 have been fully considered but they are not persuasive and details as follows:

a) Applicant's argument regarding the rejection of claims under 35 U.S.C. 112, 1st paragraph stated as "the subject matter of the claim need not be described literally in order for the disclosure to satisfy the description requirement."

In response to Applicant argument, Examiner respectfully disagrees. Applicant argument is not persuasive to consider when stated as "need not be described literally" as on page 5 in Remarks Section. The phase "quiesce time" or the word "quiesced" is not defined in the dictionaries of "Merriam-Webster's Collegiate Dictionary" and "Microsoft Computer Dictionary." It clearly indicates that the word is not a very common and rarely used. The meaning may be used as "inactive time" is raising several conditions such as inactive due to system failure, system is blocked for some reason or a processor is inactive, etc. Applicant defined in the last amendment as "wherein said quiesce time is a time when exclusive access to the data is required by a task." The actual meaning is not the same as defined. Therefore, the rejection is sustained.

b) Applicant's argument regarding claims rejection under 35 U.S.C. 101 stated as "The Examiner might have overlooked the amendment made to claims 6 and 11."

In response to Applicant argument, Examiner respectfully disagrees. Examiner did not overlook claims amendment. In the previous action in response to the amendment, Examiner informed that Applicant's amendment to claims 6, 11-14 and 16 have overcome the rejection of claims under 35 U.S.C. 101. However, the claims 6-16 rejection is still maintained. Because Applicant did not properly amend claims to overcome the rejection.

c) Applicant's argument stated regarding claim 1, as "Schmeidler… It does not indicate a maximum expiration time indicated by a next scheduled quiesce time," (see page 7, paragraph first).

In response to Applicant argument, Examiner disagrees, because the newly added prior art by Hart teaches "quiesce time" (see col. 16, lines 53-54). Applicant did not define in the specification the phrase "quiesce time" until the previous amendment. The Applicant's definition differs from the definition Examiner obtained.

d) Further, Applicant's argument stated regarding claim 1, as "There is no indication of a data access request is for data that is also accessible by one or more other clients each having a corresponding unexpired token."

In response to Applicant argument, Examiner disagrees, Because Schmeidler teaches the claimed as "The authorization token is a signed message

from the CAS indicating that the requesting user can have access to a specified briq, on a specific RAFT file server, for the length of time spelled out in the negotiated payment type" at (col. 3, lines 47-51).

e) Further, Applicant's argument stated regarding claim 1, as "Hart does not teach or suggest that quiesce time is a time when exclusive access to the data is required by a task."

In response to Applicant argument, Examiner disagrees, Hart teaches as, at some point in time, the original database D1 was put in a state of QUIESCE, that is to say, it was suspended at a given moment, which was recorded by a Time Stamp (Fig. 3, col. 12, lines 48-51). This citation also supports the Examiner obtained definition. Applicant's definition in the claim is ignored because the specification does not support the recently amended definition is not the same and it is different.

f) Further, Applicant's argument stated regarding claim 1, as the similar argument in another limitation as "the maximum expiration time indicated by the next scheduled quiesce time."

The response is the same as the above listed and there is no need of a redundant response. Therefore, refer to the above response.

g) Independent claims 6 and 11 recites limitations similar to those found in independent claim 1 and so the arguments presented above apply with equal force to the those claims, as well."

In response to Applicant argument, Examiner grouped claims for the same reason with claim 1.

h) Applicant's arguments regarding claim 16 are again similar to claim 1. Examiner, concludes that there is no need of repeating the response again.

Conclusion

16. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sathyanarayan Pannala whose telephone number is (571) 272-4115. The examiner can normally be reached on 8:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Rones can be reached on (571) 272-4085. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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/Sathyanarayan Pannala/
Primary Examiner, Art Unit 2164

srp
January 18, 2009